IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 2466 OF 2005

M/s. Thar Dry Port & Ors ...Petitioners

Versus

Sominath Pawar & Anr ...Respondents

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Mr. P.R.Dave, Advocate for Petitioners

Mr. Rajendra Sorankar, Adv. for Respondent No.1.

Mr. V.B. Konde Deshmukh, A.P.P. for State.

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CORAM: SMT. V.K. TAHILRAMANI, J.

DATED: 17TH OCTOBER, 2005

P. C.:-

1. Heard the learned advocate for the petitioners i.e. original accused, the learned advocate for the respondent i.e. original complainant and the learned A.P.P. for the State.

2. The petitioners have prayed for quashing of process issued against them in Criminal Case No. 466/SS/2005 which is pending in the Court of learned M.M. 50th Court, Vikhroli, Mumbai. In the said case, process has been issued against the petitioners under Section 138 r.w. 142 of Negotiable Instruments Act.

3. For the reasons recorded in the decision of this Court in the case of **V.K. Jain & Ors. Vs. Pratap Vs. Padode and Anr, reported in 2005(3) Mh.L.J. 778,** in my opinion, the petitioners have an efficacious remedy of preferring revision against the order of Magistrate issuing process. Hence, in my view, it would be appropriate that the petitioners prefer revision before the concerned Sessions Court against the order of the Magistrate issuing process.

4. Liberty is granted to the petitioners to prefer revision before the concerned Sessions Court. The learned advocate for the petitioners states that the necessary revision would be preferred within a period of five weeks from today. In view of this statement, the trial Court shall not proceed with the trial for a period of five weeks from today. The learned advocate for the respondent i.e. original complainant fairly states that no objection would be raised in respect of delay in filing revision before the learned Sessions Judge.

5. The learned advocate for the petitioners states that he will give four days advance notice to Mr. Rajendra Sorankar, the learned advocate for the respondent No.1. i.e. original complainant in respect of filing revision before the learned Sessions Judge.

6. On the necessary revision being preferred by the petitioners before the concerned Sessions Court, the concerned Sessions Court shall dispose of the same on merits after hearing necessary parties.

7. Writ Petition is disposed of.

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